

ORDINANCE NO. 09-63

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW AN AFTER-HOURS DINNER AND DANCING CLUB TO HOST NO MORE THAN SIX TICKETED LIVE ENTERTAINMENT SPECIAL EVENTS OPEN TO THE PUBLIC EACH MONTH ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT) AND GRANTING A VARIANCE TO ALLOW 199 PARKING SPACES, WHERE 263 PARKING SPACES ARE REQUIRED, FOR THE OPERATION OF DINNER AND DANCING CLUB, CONTRA TO HIALEAH CODE §98-2189(10). **PROPERTY LOCATED AT 741 EAST 9 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 24, 2009 recommended approval of this ordinance in substantial form; and

WHEREAS, the use allowed by special use permit is ancillary and subordinate to the existing banquet hall use;

WHEREAS, the Petitioner proffers to a declaration of restrictive covenants to restrict access to the preprogrammed ticketed live entertainment special events to adults over the age of twenty-one or older, each event shall include dinner or the service of full-course meals prepared on premises to accompany the live musical performance or other live entertainment, each event shall run no longer than 2:00 a.m., police security shall be provided at each event for the entire length of the event, and Petitioner shall host no more than six events each month, to which the City accepts; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a special use permit (SUP) to allow an after-hours dinner and dancing club to host no more than six ticketed live entertainment special events each month on property zoned C-2 (Liberal Retail Commercial District) and is hereby granted a variance permit, ancillary to the special use as an after-hours dinner and dancing club, to allow 199 parking spaces, where 263 parking spaces are required, contra to Hialeah Code §§ 98-2189(10), which provides in pertinent part: *“Establishments serving food, liquor or refreshments, including restaurants, lounges, nightclubs or other similar places...b. If dancing is permitted or live entertainment is provided, one parking space for each 100 square feet of gross floor area is required.”* The property is located at 741 East 9 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

TRACT A, OF PLAZA DEVELOPMENT, ACCORDING
TO THE PLAT THEREOF, AS RECORDED IN PLAT
BOOK 102, PAGE 28, OF THE PUBLIC RECORDS OF
MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of the Conditions of Use and/or Declaration of Restrictive Covenants.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use and associated variance.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

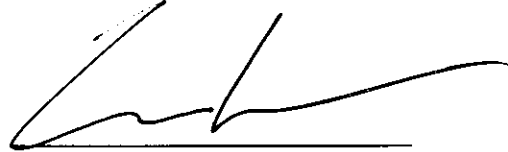
Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the

Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 25th day of August, 2009.

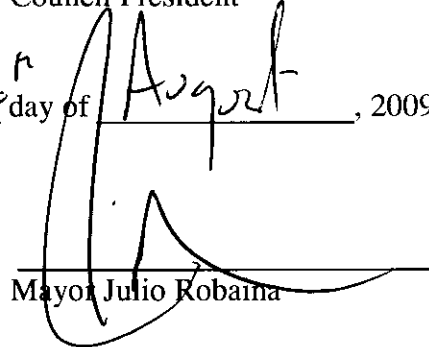
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



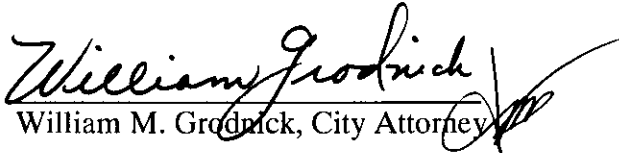
Carlos Hernandez
Council President

Attest:

Approved on this 26th day of August, 2009.


Rafael E. Granado, City Clerk
Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".



CFN 2009R0641430
DR Bk 27001 Pgs 2555 - 2556 (2pgs)
RECORDED 09/03/2009 13:46:08
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:

City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

DECLARATION OF RESTRICTIVE COVENANTS

I, Rosa Maria Carreras, as President and duly authorized officer on behalf of RHC INVESTMENT GROUP, LLC, a Florida limited liability corporation, being the owner of lands described herein:

Tract A, of PLAZA DEVELOPMENT, according to the Plat thereof, as recorded in Plat Book 102, Page 28, of the Public Records of Miami-Dade County, Florida.

The street property address is 741 East 9 Street; Hialeah, Florida 33010

The folio number is 04-3117-020-0010

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The premises, being legally described above, shall be allowed to operate, as a use ancillary and subordinate to the existing banquet hall, a dinner and dancing club for the specific purpose of hosting no more than six monthly preprogrammed ticketed live entertainment special events. Access to these events shall be restricted to adults over the age of twenty-one only. Each event shall include a full-course meal prepared and served on the premises to accompany the live musical performance or other live entertainment. Each event shall run no longer than 2:00 a.m. Each event shall be monitored by sworn off-duty police officer for the entire length of the event.
2. As a means of enforcement for any violations of these restrictions, the undersigned consents to the revocation of the special use permit. Thereafter, the premises shall only be used pursuant to the applicable regulations of the underlying zoning classification.
3. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
4. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive

ord.
09-63
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Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, We have hereunto set out hands and seals at
501 Palm Avenue, Florida, this 7 day of August 2009.
 (location)

Attest:

Name of Corporation: RHC INVESTMENT GROUP, INC.

Secretary:

 Typed/Printed Name

Signed, sealed and delivered in the presence of:

By:

Rosa Maria Carreras
 President

Ulysses Ramirez
 Witness

 Typed/Printed Name

Patricia Chaiken
 Witness

 Typed/Printed Name

Corporate Seal

STATE
 OF
 COUNTY
 OF

Florida
Miami-Dade

The foregoing instrument was acknowledged before me on this 7 day of August 2009 by Rosa Maria Carreras as President, and _____ as Secretary, of _____
 (Name of Officer or Agent) (Name of Secretary)

RHC Investment Group, Inc., a
 (Name of Corporation)

Florida corporation.
 (State or Place of Incorporation)

They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein. FDL# C62725-51-891-0
EXP: 10-31-11

This document was prepared by:

City of Hialeah
 Name

501 Palm Avenue
 Street

Hialeah FL 33010
 City State Zip Code

Patricia Chaiken
 Signature of Notary Public



Name of notary typed, printed, or stamped
 Commission Number: